



## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

**RTID 0648-XC091**

#### **Endangered and Threatened Species; Take of Anadromous Fish**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** The National Marine Fisheries Service (NMFS) has received an incidental take permit (ITP) application from Port Blakely, associated with the Port Blakely Habitat Conservation Plan (HCP) for the John Franklin Eddy Forestlands located in Clackamas County, Oregon. Port Blakely submitted the ITP application pursuant to the Endangered Species Act of 1973, as amended (ESA). The permit, if issued, would authorize incidental take of the covered species under NMFS jurisdiction resulting from the timber harvest, silviculture, and road management activities, as well as take resulting from activities carried out as part of the HCP's conservation strategy on the John Franklin Eddy Forestlands for a permit term of 50 years. In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), NMFS announces the availability of a draft environmental assessment (Draft EA). NMFS is the lead Federal agency under NEPA, and the U.S. Fish and Wildlife Service (USFWS) is a cooperating agency. The Draft EA analyzes the potential effects of issuance of the ITPs and approval of the HCP.

**DATES:** Comments on any of the documents or requests for a hearing on the application

must be received at the appropriate address (see **ADDRESSES**) no later than 5 p.m.

Pacific Standard Time on [*INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER***].

**ADDRESSES:** Written comments on any documents should be addressed by email to *portblakely.hcp@noaa.gov*. Include in the subject line of the email comment the following identifier: Comments on Port Blakely's Habitat Conservation Plan for the John Franklin Eddy Forestlands. Please specify whether the comments provided are associated with the HCP or the Draft EA. When commenting, please refer to the specific page number and line number of the subject of your comment. The HCP and Draft EA are available on the internet at <https://www.fisheries.noaa.gov/action/port-blakely-habitat-conservation-plan-john-franklin-eddy-forestlands>.

**FOR FURTHER INFORMATION CONTACT:** Annie Birnie, NMFS, via phone at 503-230-5407 or via email at *annie.birnie@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** We, the National Marine Fisheries Service (NMFS) received an incidental take permit application from Port Blakely, which includes a habitat conservation plan (HCP) that contain measures to minimize and mitigate the impacts of taking of five ESA-listed species under the jurisdiction of NMFS. Port Blakely also submitted an incidental take permit application, including the HCP, to the USFWS for 17 species under USFWS jurisdiction. The applicant is seeking authorization for the incidental take of the species covered by the HCP pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*).

**Species Included in the HCP**

ESA-listed species covered by NMFS:

- Chinook salmon (*Oncorhynchus tshawytscha*): threatened Lower Columbia River (LCR) evolutionarily significant unit (ESU); threatened Upper Willamette River (UWR) ESU;
- Coho salmon (*Oncorhynchus kisutch*): threatened LCR ESU;
- Steelhead (*Oncorhynchus mykiss*): threatened LCR distinct population segment (DPS); threatened UWR DPS.

ESA-listed species covered by USFWS:

- Bull trout (*Salvelinus confluentus*);
- Gray wolf (*Canis lupus*); and
- Northern spotted owl (*Strix occidentalis caurina*).

**Non-ESA-Listed Species covered by USFWS**

- Pacific lamprey (*Lampetra tridentata*);
- Cascades frog (*Rana cascadae*);
- Coastal tailed frog (*Ascaphus truei*);
- Cascade torrent salamander (*Rhyacotriton cascadae*);
- Oregon slender salamander (*Batrachoseps wright*);
- Western/North Pacific pond turtle (*Actinemys marmorata marmorata*);
- Northern goshawk (*Accipiter gentilis*);
- Pacific Fisher (*Pekania pennanti*);
- Townsend's big-eared bat (*Corynorhinus townsendii* spp.);
- Hoary bat (*Lasiurus cinereus*);
- Silver-haired bat (*Lasionycteris noctivagans*);

- Fringed myotis bat (*Myotis thysanodes*);
- Long-eared myotis bat (*Myotis evotis*);
- Long-legged myotis bat (*Myotis Volans*).

## **Background**

Section 10(a)(1)(B) of the ESA, as amended (16 U.S.C. § 1531 *et seq.*), authorizes the NMFS and USFWS to issue ITPs to non-Federal parties for potential incidental take of endangered or threatened species as a result of covered activities. In support of its applications for such ITPs, Port Blakely prepared an HCP that provides an assessment of impacts of its timber harvest, silviculture, and road management activities in the Clackamas River and Molalla River basins of Oregon on the identified species; measures to monitor, minimize and mitigate for those impacts on those species; and procedures to account for unforeseen or extraordinary circumstances.

## **Authority**

Section 9 of the ESA and Federal regulations prohibit the taking of a species listed as endangered or threatened. The ESA defines “take” to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS and USFWS may issue permits, under limited circumstances to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA and implementing regulations (50 CFR 222.307 for NMFS and 50 CFR 17.22(b) and 17.32(b) for USFWS) provide for authorizing such incidental take of listed species.

The proposed issuance of the ITPs is a Federal action requiring evaluation under the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et*

*seq.*), and implementing regulations at 40 CFR parts 1500-1508. Pursuant to the requirements of NEPA, NMFS prepared the Draft EA to evaluate the potential environmental impacts of implementation of the proposed HCP. USFWS is a cooperating agency in this NEPA process.

After public review, NMFS will review the comments in coordination with the USFWS. NMFS will finalize the EA and determine whether the proposed action warrants a finding of no significant impact or whether an environmental impact statement should be prepared pursuant to NEPA. NMFS will evaluate the permit application submitted by Port Blakely, the associated documents, and any comments received, to determine whether the permit application meets the requirements of section 10(a)(1)(B) of the ESA and its implementing regulations. NMFS will also evaluate whether issuance of the requested permit would comply with the ESA by conducting consultation under section 7(a)(2) of the ESA on the proposed ITP action. The final NEPA and permit determinations will not be completed until after the end of the 30-day comment period, and NMFS will fully consider all comments received during the comment period. If NMFS determines that all requirements are met, it will issue ITPs under section 10(a)(1)(B) of the ESA to Port Blakely for the take of the covered species under NMFS jurisdiction, incidental to otherwise lawful covered activities.

Dated: June 7, 2022.

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Angela Somma,

Chief, Endangered Species Division,

Office of Protected Resources, National Marine Fisheries Service.